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SUBJECT: PORTUGAL: DEMARCHE ON U.S.-EU SECOND STAGE AIR  
TRANSPORT NEGOTIATIONS

REF: STATE 9584

¶1. Emboffs delivered reftel demarche on February 8 to Joao Confraria, Deputy Chairman of the Board of the Portuguese Civil Aviation Authority (INAC), and Fernanda Bandarra, Head of the Market Access Department at INAC, urging a realistic and pragmatic approach in the upcoming round of U.S.-EU negotiations to reach a second-stage agreement by the end of ¶2010.

¶2. Bandarra said that Portugal has been closely following the rounds of negotiations and that senior INAC negotiator Ana Cristina Pais would be participating in the Madrid negotiations. She acknowledged the policy and legal challenges for both sides -- for EU member states to change legislation regarding noise-related operational restrictions at EU airports and for the U.S. to change its laws on ownership and control of U.S. carriers.

¶3. Confraria noted that airport noise restriction is a national, not EU, competency, with each EU member state regulating its own level. He explained that changes to domestic noise-level legislation is difficult due to the lack of legal obligation and absence of Portuguese tradition to subject such legislation to cost-benefit analyses. He pointed out that even if the benefits outweighed the costs, environmentalists in Portugal are well organized and would oppose proposed changes.

¶4. Confraria told us that Portugal is in favor of reducing emissions by 2020 but not at the expense of competitiveness. He noted that some U.S. airlines have filed action in British courts, challenging a U.K. effort to bring them into the EU emissions trading scheme by 2012 to fight climate change. (The European Parliament voted in July 2008 to add EU and foreign carriers to the emissions trading scheme, which imposes a cap on industrial emissions of carbon dioxide.) He pointed out that if the U.S. carriers prevail and they are exempt from the scheme, Portuguese airlines would be at a "cumulative competitive disadvantage" starting in 2013, with the implementation of the emissions trading system, which would require developed nations to reduce emissions from 1990 levels by 2020.

¶5. Confraria viewed favorably U.S. willingness to recognize traffic rights awarded to merged companies that have already signed Open Skies agreements, describing it as a "friendly move" by U.S. negotiators and "potentially more interesting" than Portuguese airlines having stakes in U.S. companies. Nonetheless, he affirmed that Portugal would support a common EU position and defend the right of EU companies to buy a controlling share in U.S. companies if that was the final EU position. He anticipated that if air traffic continues to grow at a steady 3.5 percent per year, capacity at Lisbon's international airport would be exhausted by 2020, resulting

in some congestion and decreased quality of service. He calculated that construction of the new airport could be completed by 2020 if begun in 2012.

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<http://www.intelink.sgov.gov/wiki/portal:portugal>  
BALLARD